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THE PUBLIC HEALTH ASSOCIATION OF NEW-YORK.

Sanitary Legislation in England and New-York:

BEING

A PAPER READ BEFORE THE ASSOCIATION, DECEMBER 8, 1872,

BY

D. B. EATON, Esq.

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PRINTED BY THE ASSOCIATION.

New-York:

JOHN W. AMERMAN, PRINTER,
No. 47 CEDAR STREET.

1872.

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*Presented by
A. E. M. Purdy*

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1872.

NEW-YORK, Dec. 9, 1872.

DORMAN B. EATON, Esq.,

DEAR SIR: At a meeting of "THE PUBLIC HEALTH ASSOCIATION OF NEW-YORK," held Dec. 7, 1872, on motion of Dr. JAMES R. WOOD, seconded by Judge E. D. CULVER, it was unanimously

Resolved, That the thanks of this Association be tendered to D. B. EATON, Esq., for his elaborate and instructive paper on Sanitary Legislation in England and New-York, and that a copy be requested for publication.

STEPHEN SMITH, M. D.,
Pres't of the Association.

2 EAST 29TH ST.,
NEW-YORK, Dec. 12, 1872.

DEAR SIR:

Responding to the request contained in your note of yesterday, I hand you, herewith, for publication, a copy of the paper to which you refer. And I am, with great respect,

Your ob't serv't,
D. B. EATON.

STEPHEN SMITH, M. D.,
President, &c., &c.

SANITARY LEGISLATION IN ENGLAND AND NEW-YORK.

MR. PRESIDENT :

A complete presentation of so broad a subject as that of sanitary legislation in England and in New-York would require a space far beyond the convenience of this meeting. And yet, I think it will be profitable to attempt to gather instruction from a somewhat general view of the subject. For if I rightly understand the ultimate objects of this association, they are, while elevating the medical profession and promoting the study of sanitary science, to awaken the public mind to the utility of sanitary legislation, and to shed light along its true course. In this view, I shall exclude from this paper what is merely, historically interesting or only concerns medical men, and shall consider the subject in reference to the important question of the best method of making legislative authority effectual for the protection of the health and lives of the people.

With exceptions in one or two departments, we shall find little that will be profitable for the purposes of this paper in the sanitary legislation of England prior to this century; not much prior indeed to the second quarter of this century. The causes of this barrenness are plain. The first conditions of success in sanitary legislation did not exist. The physicians were too ignorant of the causes of those frequent contagions that swept to untimely graves frightful portions of every dense population; too inexperienced as to the secret sources of poison and death which came up from the sewers and cesspools of every village and city. The majority of the people were too ignorant and prejudiced to follow good medical advice, even if it could have been obtained. And above all, neither the government nor the higher intelligence of the people

had formed any adequate conception of the inestimable value of medical learning and sanitary experience, acting in co-operation with political power, for the promotion of the public health. High-born dunces affected to look down alike upon the doctor, the parson and the attorney.

But beyond all this, the government was controlled by a high and haughty class, that gave little consideration to common human comfort, and took as little care of the public health as it did of the people's education. The jails and the prisons were fountains of contagion and shared with the gallows the harvest of death.

But sanitary science is practical Christianity, in close alliance with high learning, going about to heal the sick, to bind up the wounds of the afflicted and to close the springs of disease; and how can it do its work in an age when the just spirit of human brotherhood—when a high sense of the duty which the rich and the cultured owe to the poor, the afflicted and the humble—were wanting? How can a State, so long as it punishes more than a hundred crimes by death, and denies its poor laborers burial in its public churchyards, in default of professing the State religion, rise to the high and Christian spirit of sanitary legislation?

That business pursuits which caused smells offensive to the rich and high born, were suppressed; that dangerous lepers and dreaded sick men and women, were hustled away; that those from abroad, whom it was thought might bring infection, were summarily driven back—we need not doubt. But for any comprehensive measures of sanitary precaution against the sources of public sickness, for any measures of legislation benevolently concerned in the interest of the health and comfort of the poor and humble, we shall look for almost in vain, until well into this century. Yet there are some interesting exceptions. One of the earliest, if not the very earliest, of the sanitary laws of England, enacted in 1388, imposed a penalty of £20 on any person who cast animal filth or refuse into rivers and ditches. How far this had reference to fish and fishing, and how far to public health, I cannot tell. An act of 1489 prohibited the slaughtering of cattle within cities and boroughs. In 1552, as appears from the court rolls of Stratford-on-Avon, the father of Shakspeare was fined for depositing filth in the public street in violation of the By-Laws of the manor; and he was again fined in 1588 for not keeping his gut-

ter clean. And as early as Henry VI. and Henry VII., there were acts creating "Commissions of Sewers." (See Report of Royal Sanitary Commission, 1871.)

The duty of legislation for the health of the millions, as well as a sense of the vast pecuniary profit of such legislation, are late productions of public intelligence and official fidelity. The earlier sanitary legislation has main regard, not to the welfare of the sick or of the whole people, but to the safety and comfort of the rich and the powerful. The true work of sanitary reform commenced only when medical learning began to be duly appreciated, and the spirit of beneficence subordinated the pride of birth.

And it is astonishing how false and shallow was the conception of the capacity of sanitary legislation to secure even such unworthy results as the mere safety of the great. While resorting to the most cruel and arbitrary measures for thrusting out of sight those whose persons were imminent sources of death, this selfish policy really left the high and the low alike involved in the perils of infection and contagion. The filthy houses of the degraded, the streets, cesspool and drains, remained the prolific sources of scourging disease and death, which spared not those haughty classes who seemed to think their own houses safe when they had driven the sick poor back to their filthy cellars, garrets and shanties. There was tenfold frequency of legislative debate, twenty times the number of judicial trials, vastly greater space in statutes and legal commentaries, devoted to the subject of the regulating and balancing of the artificial relations and ranks in social life, with which the law should not meddle, that there was to guarding the people from the sources of disease, contagion and death, which is one of the most profitable and solemn of all the subjects of human legislation.

In 1758, Sir William Blackstone, in a series of lectures delivered at the University of Oxford, made a masterly exposition of the laws of England, which fills four large volumes. The whole of the first volume, of nearly 500 pages, is devoted to setting forth what he calls the rights of persons; that is, to stating what he regards as the most important personal rights of Englishmen, the estimate in which the English law holds those rights, and the moral claim they have on the protection of Parliament. Now, what portion of these 500 pages do you suppose he devoted to the right of the people to have the public health protected?

One line and two words, and no more! as follows:

"4. The preservation of a man's health from such practices as may prejudice and annoy it." Not a word of comment! The conception of sanitary legislation which existed in the mind of the great author, is further shown by his devoting nearly three pages, in the same chapter as the above extract, to the right of a man to insist on having his *limbs* protected by law, and especially by this definition of his limbs.

"2. A man's limbs (by which, for the present, we only understand those members which may be useful to him *in fight, &c.*) are the gift of the wise creator, &c. They cannot be wantonly destroyed or disabled."

He did not feel it proper, his age did not demand, that he should spare the space to say as much of the public health.

To the king and his title, this volume devotes a whole chapter; to the royal family, a whole chapter; to royal councils, a whole chapter; to the royal prerogative, a whole chapter; to the clergy, a whole chapter; to the military and maritime state, a whole chapter. Thus the great question of the public health—of the ability of the people to work, to enjoy life, to support themselves and the State,—compared with such artificial and expensive adjuncts of the government, were, in Blackstone's day, estimated as two lines to many chapters.

Passing to his third volume, in which he treats of private wrongs, we find *nearly two-thirds of a page* devoted to sanitary legislation, or, in his language, to "injuries affecting a man's health." He declares, "that injuries affecting a man's health are, when by any unwholesome practice of another, a man sustains any apparent damage in his vigor or constitution. As by selling bad provisions or wine, by the exercise of a noisome trade, which infects the air of the neighborhood; or by the neglect or unskillful management of his physician, surgeon or apothecary." He points out, that for such an injury, a person suffering damage, may bring suit and recover such damage as he can prove. It may be interesting to our doctors to know, that in saying a suit could be brought against a physician, Blackstone's text was probably not quite accurate; for in that day the profession of a physician, like that of a barrister, was honorary, so that they could neither sue for a fee, nor be sued for malpractice. But attorneys,

solicitors, apothecaries, surgeons, druggists, and the "medical man," were not too honorable to sue or be sued.

It would seem, therefore, that up to nearly the end of the 18th century, there was no legislation in England, under which the State, at its own expense, undertook to protect the public health; nor were there any state agencies, (except so far as hospitals and medical colleges are such,) through which the people could seek sanitary relief. Such relief must be sought by litigation for damage done; sanitary precautions were too theoretical for that day. The rich could crush the poor in the courts. The poor man could sue, if he dared, the rich owner of a pestiferous nuisance that contaminated the air of a dense neighborhood of humble life.

In his fourth volume, in treating of people's wrongs, Blackstone concludes his references to the subject of public and private health, by bestowing *more than half a page* of comment upon the subject of the public prosecution of the authors of nuisances injurious to the public health. He says, "the fourth species of offences, more especially affecting the commonwealth, are such as are against the public health of the nation; a concern of the highest importance, and for the preservation of which *there are, in many countries, special magistrates or curators appointed.*"

In these special magistrates and curators we may find old precedents for those sanitary inspectors and physicians clothed with sanitary authority, which are among the most important agencies of the recent sanitary legislation of England and the United States.

Blackstone goes on to declare that there are only two of these offences which can be publicly prosecuted, viz.: 1. A person endangering the public health by appearing in a public place when infected with the plague, or while dwelling in an infected house. 2. The selling of unwholesome provisions. He says, that by the blessing of Providence, it had been impossible for more than a century to commit the first offence in England; for the sole reason that a statute of James I. had enacted that the mayor or other head officer might command the watchman to compel any such person to keep his house; and it would be the duty of the watchman on such melancholy occasions to obey such necessary commands; and that if the sick man shall nevertheless go abroad, having no

plague sore on him, he shall be whipped as a vagabond; but if he have any infectious sore on him he will be guilty of felony, and hence, of course, be punished with death.

The spectacle of a great nation, at the end of the 18th century, without any precaution or safeguard against the spread of infection, contagion and death, save the order of the mayor to the watchmen to run around and tell all the afflicted to stay in their dens of pestilence, is certainly most striking. One would think that mother Partington's attempt to sweep the Atlantic waves clean of her cabin floor would be easy, compared with the duty of the watchman in case of the visitation of a great city by the plague, the cholera or the yellow fever.

The second offence, (that of selling unwholesome provisions,) could be committed by violating certain statutes of Henry III. and Charles II.; among the more important of which was an act prohibiting the selling of unwholesome flesh or flesh *that is bought of a Jew*; an act which, if now in force in this city, would allow us but precious little meat. It was, however, a punishable offence under the common law of England, that is independent of any known statute, to expose on the streets a person infected with a contagious disorder, or knowingly to give a person injurious food to eat. And public nuisances might be publicly prosecuted.

So limited in those days were the offences against the public health which could be redressed by any public proceedings. That great author having thus summarily disposed of the public health, next considers offences against public police and economy; and his language most strikingly marks the contrast between the spirit of his generation and of our own.

He says, "By the public police and economy, I mean the due regulation and domestic order of the kingdom, whereby the individuals of the State, like members of a well governed family, are bound to conform their general behaviour to the rules of propriety, good neighborhood and good manners, and to be decent, industrious and inoffensive in their respective stations. This kind of offences must therefore be miscellaneous." And he thereupon devotes to it twenty times the space accorded to the public health.

Among those miscellaneous offences were these: it was felony, punishable by fourteen years' transportation, to solemnize mar-

riage in any other place besides a church or chapel, wherein bans have usually been published; felony to solemnize marriage without such publication of bans; felony for persons to wander about the realm pretending to be soldiers or mariners; felony to be outlandish persons, calling themselves Egyptians or Gipsies, and telling women's fortunes. So, too, those persons were subject to prosecution who made and sold fire-works and squibs; who gave themselves to idleness; who were eaves-droppers, and listened under walls and windows to hearken after discourse; who (being women, it would seem,) became common scolds and vexed the neighborhood; and these latter might be sentenced to the trebucket, castigatory or ducking-stool, and finally be plunged into the water; though it does not appear that the latter and only proper part of this punishment had any reference to sanitary results.

But we soon find these overstrained efforts of the law subsiding, and the national mind of England giving its attention to more reasonable and salutary measures for promoting the health of the people. In the reign of George II. the first general law was enacted for the quarantine of vessels and persons coming from infected places. On this law, in part as a basis, the British Parliament has reared a quarantine system, nearly uniform throughout the three kingdoms, and which has proved fairly adequate for the protection of the public health. That system cannot, perhaps, be said to be more effective than the quarantine laws which apply to the port of New-York; but the English quarantine laws, regarded as a whole, have great advantages over the general legislation of the same kind prevailing in this country. Parliament having the same full jurisdiction over the three kingdoms, is able to enforce uniformity and co-operative quarantine regulations in every port; while with us, the practical division of jurisdiction between the federal and State legislatures and the discordant methods prevailing in the several States, have caused our quarantine system to be generally feeble and defective. One of the great works to which sanitary reformers should devote their labors, is to the creation of a system of harmonious and efficient quarantine regulations for the whole Union, in which State and federal power should each have its due agency and discharge its appropriate duty.

It would be instructive, if I could allow myself the space, to trace the various agencies and forces which have co-operated for

the development of the complicated and vigorous system of internal sanitary laws now existing in England; but I can do no more than refer to the two most prominent and effective of these influences.

And first, the appeal coming in behalf of the great cities, the factories and the mines. This came to the King and to Parliament in a double aspect: one in tones of fear and petition from those who dreaded the miasma and contagion bred in the dens of ignorance, filth and vice; the other in admonitions of duty and schemes of sanitary reform from learned doctors and others who sympathized with the afflictions of their fellow beings, and had faith in the capacity of intelligent government to avert the consequences of those offences against the sanitary laws of the universe, which bring needless sickness to families and numerous inmates to hospitals and asylums.

Great cities, by creating a density of population and an accumulation of vice, have always been the prolific sources of contagion and pestilence; and their better citizens have also been the first to suggest and apply legislative measures of relief. Long before Parliament had enacted any general sanitary law, save those relating to quarantine, some of the larger cities of England had secured from the crown authority, generally very meagre, to make sanitary regulations. Special sanitary legislation for cities began early in the reign of George II. And the Municipal Corporations Act of 1835 extended such legislation. In this way some protection was secured against filthy slaughter-houses, bad drainage, infected cellars and persons afflicted with contagious diseases. There was, however, no harmony of action or even of theory, but one city had one method, the next another and a third none at all. Medical and sanitary science had not reached its present high plane; superstition and ignorance interposed far greater obstacles than at present; and the benevolent and Christian spirit, now so potent in sanitary reform, was far less vigorous and enlightened in the direction of sanitary legislation. The most complete English city charters of even half a century ago contained authority for the protection of the public health, which would now be deemed dangerously and disgracefully inadequate. For example, the latest royal charter for the City of New-York, that known as the Montgomerie Charter, granted in the fourth year of the reign of George II., though containing the most com-

plete and fatiguing enumeration of powers, relating to nearly every possible matter, from cider, stragglers and beadles, up to the holding of courts and the making of city freemen for five pounds a head, contains but the merest crumbs or hints of sanitary authority, and does not so much as mention the public health or the preservation of human life. Some vague language about the "bailiff and conservator of the water of the North and East Rivers;" about the Mayor appointing packers, cullers, common cryers and *scavengers*; about sending "rogues, vagabonds and suspicious persons" to the bridewells; and about collecting thirty shillings for a "license to sell ale, strong waters and rum;" are all that is to be found in the fifty-five solid pages of this great charter of our municipal liberties, touching the most important subject with which the government of a city has to deal. We may be sure that the authors of this charter would never have admitted such a novel word as "sanitary" into their municipal vocabulary, without, at least, carefully consulting a *Lexicon*.

The prior charters were equally barren of sanitary provisions.

The English mind, at this time, had only fairly begun to regard the protection of the public health as a practical matter. Speaking of the 17th century, Macaulay says, (Vol. 1, pp. 310 and 311,) "Medicine has become an experimental and progressive science, * * &c.; and the attention of *speculative* men had been, for the *first time*, directed to the important subject of sanitary police."

But sanitary authority gradually became both more extensive and more frequent in English municipal charters. More and more medical science instructed Parliament, and humane men and women out of Parliament inquired into the possibilities and profits of sanitary laws, for the promotion of the public health.

As early as 1840 and 1841, general statutes were enacted, (which have since been made more efficient,) for general vaccination at the public expense throughout the kingdom; and similar statutes soon followed for the establishment of public baths and wash-houses, and for the supervision of common lodging-houses. The absence of corresponding provisions in this State, even to this day, is a striking commentary on the general belief, that a republic must needs excel a monarchy in its provisions for the afflicted and the destitute, and is a dishonor to our civilization.

Commissions were also created by law for the making of extensive sewers in the cities and for the drainage of stagnant waters in the rural districts. The unhealthy condition of mines, workshops, prisons and degraded city districts, was pressed upon the attention of Parliament by physicians and philanthropists. Great nuisances were more frequently prosecuted in the courts; and learned doctors and humanitarians, by their writings, attracted public attention to the fearful loss of health, of valuable time and of life, by causes against which wise sanitary laws could provide safeguards.

As the result, a net-work of local sanitary legislation was soon woven over all England; which, prior to 1845, had become so complicated, incongruous, inconvenient and yet inadequate, that the creation of a general system and co-operative administration was felt to be indispensable. The condition was much like the present condition in this State. Parliament first appointed sanitary commissions to bring before it the facts in regard to the public health in the great cities, more especially in London, and to lay the basis of a sanitary code and to devise a method of sanitary administration. In 1838-9 the Poor Law Commissioners had made three reports to Parliament on the diseases of London; in 1839 the Register General of births and deaths had exhibited a general survey of the increasing sickness and deaths in the great towns and cities; and in 1840, a report was made from a select committee in relation to sewers, interments, lodging-houses and public baths. In 1843, a still more comprehensive report was made by a commission, headed by the Duke of Buccleugh, as to the general causes of disease in the kingdom. The labors of these commissions were immense and invaluable. In 1845, the ministry of Sir Robert Peel was able to introduce the first of those great measures of sanitary relief which have since been known as the "Model Acts." They constitute an era in sanitary legislation, and are an honor to England. There were eleven of these acts, all passed between the beginning of 1845 and the end of 1847. It was an essential part of their object to bring the main provisions of the varied and confused enactments relating to cities, mines, swamps, manufactories, nuisances, the sick and the degraded in localities, under a few general statutes, and a more general, official supervision. The sphere of sanitary administration was also extended, and certain general clauses were provided in these acts, which were to be

taken as a part of all subsequent sanitary legislation for municipalities, by mere words of reference.

But even all this failed to answer the rising demand for better protection of the public health; and in 1848, the first comprehensive public health law was passed, with a clause limiting its existence to five years.

A high officer of state was made leading commissioner, and two associates were also appointed by the crown to superintend the execution of this act, and were called "The General Board of Health;" the provisions of the act were re-enforced at the same session, by another especially intended to guard against the cholera then approaching.

A reference to some of the provisions of this great act of 1848 will show how much more comprehensive it was, than any thing yet enacted for any part of this State, save the City of New-York. Before making such reference, however, I ought to state that there had been, since 1836, a general statute in England, providing for an efficient system of registry of births, deaths and marriages throughout the kingdom; so that the Register General was able to regularly publish the ratio of births, deaths and marriages in every part of the country. Even to this day, our registration is little more than a sham outside of this city.

But to our references :

(1.) When the deaths were too high in any place, it is provided that the central board shall order a sanitary inspection, and report to be made by one of its competent officers; and the proper order for cleaning, draining or disinfecting are to follow, until the death rate goes down, and the expense was to be assessed upon such sickly places; the act having provided for local boards of health in cities and villages.

(2.) The central board is required to cause local boards to take proper precaution against sickness caused by bad sewers, offal, sewerage, filthy streets and other nuisances, which may be neglected.

(3.) The act prohibits buildings without proper drains, water closets and ventilation, and requires all slaughter-houses to be properly built and to be registered.

(4.) Imposes penalties on those creating nuisances detrimental to public health.

(5.) Authorizes inspectors of nuisances to enter and inspect all premises.

(6.) Prohibits the letting of cellars for dwellings in future houses, or even in those existing, save on certain stringent conditions.

(7.) Authorizes local Boards of Health to order water supplied to houses and to public baths and urinals, to water closets, pumps and cisterns.

(8.) Gives the members of the local boards of health power to act as justices under the law, and provides for recovering penalties, damages, costs and expenses before them summarily.

(9.) And to supply the means of doing such sanitary work, the boards were not only authorized to levy taxes, but they were authorized to mortgage a portion of the local taxes for years to come.

Such are a few of the more striking provisions of the act of 1848; and is it any wonder that, with such a spirit among the people, and laws like those well enforced for twenty-five years, the death rate of England has fallen below that of this State, or that the streets of English cities and villages are decidedly cleaner than those of the villages and cities of this State. And how prodigious is the cost of our needless sickness. It is some consolation, however, to know that the labors of the Health Board of New-York have already reduced our local death rate materially.

This general law was followed by several of more limited scope; such as the important act for the prevention of diseases, (11 and 12 Victoria, ch. 123,) under which a medical member was added to the General Board of Health; further acts in regard to lodging-houses and vaccination; a second act for the prevention of disease, passed in 1855; an act to consolidate the nuisance, removal and disease prevention acts, passed in 1855, which is far more vigorous and comprehensive than any sanitary legislation known in this State, (save our Metropolitan Health Act, and goes beyond that in some particulars;) the nuisance, removal and disease act of 1860; and there was a further amendment made in 1863.

In 1858, the great act of 1848 (which had been continued by intermediate acts) was modified by a new law, called the local government act of 1858. This last act enlarged the power of the local health boards, provided for more extensive sanitary precau-

tions, and gave large sanitary powers to a member of the cabinet ; and thus sanitary administration became a part of the duty of the ministry.

The great acts of 1848 and 1858 were materially amended by the sanitary act of 1866. That act extends the health laws to Ireland ; and it approaches very near to making health legislation a distinct department of English administration. The prior sanitary laws are extended and invigorated ; and local administration and central supervision and control are so united as to give uniformity and strength to every part of the vast sanitary system. Nothing in the form of general sanitary legislation in this country equals the breadth, the spirit of business and the wise precautions, which characterize this system.

The act of 1866, which is by far the shorter of the three great acts, has detailed provision relative to sewers, drainage, water supply, wells, nuisances of many kinds, medical practitioners, disinfection, infectious diseases, transporting the sick, receptacles for the dead, hospitals, ships, lodging houses, sewerage, infected buildings, guardians of the poor, baths and wash-houses, burials, removal of nuisances, dispensaries, medical inspectors and many other matters ; most of which are of general application.

And in 1866, also, was enacted an important sanitary law, amended in 1869, known as the "Contagious diseases act," which, though open to some grave objections and the object of considerable popular protest, yet strongly illustrates the rising morality of English public sentiment and its courage in dealing with the great social evil. We have no corresponding legislation in this State, and these statutes are worthy our serious attention.

To these also must be added the consolidated vaccination act of 1867 ; the laborers' dwelling act of 1868 ; the venereal diseases act of 1866 ; the act of 1860 to prevent the adulteration of food and drinks ; the pharmacy acts, and the act relating to the sales of poisons of 1868 and 1869 ; the alkali works regulation act of 1863 and 1868 ; the acts relative to smoke and steam of 1858 and 1866, besides others of less importance too numerous to mention.

And I especially regret not being able to allow myself the space needed to do justice to the sanitary legislation of England for the protection of children and miners ; to that under which such admirable and complete returns of deaths and births are secured from every city, village, town and hamlet of the kingdom ; or to

that which keeps coroners in awe, and prevents their powers being used, as is too often the case here, to cover the deadly work and to screen from punishment the guilt of charlatans, abortionists and partisan bullies.

It may not be uninteresting to add, that the number of books, pamphlets, speeches and voluntary organizations devoted to the subject of sanitary legislation and reform is very great—tenfold as great as with us. And yet the public demand for more sanitary precaution is not satisfied; and at the session of Parliament of 1871, a report in several volumes, prepared by an able commission, was presented, and further legislation of an important character was nearly matured, at the last session, and will doubtless be soon enacted.

Some of the recommendations of this report, which the new law will probably embody, are well worthy our attention, viz. :

- (1.) That there should be one local health authority in every place; so that none should be without it.
- (2.) That the members of all local health authorities should retire in rotation, and not at once.
- (3.) That the administration of laws relating to public health should be presided over by one minister, as the central authority. (That is, that there should be a minister of the public health.)
- (4.) That all expenditures of local boards of health should be examined and allowed, or rejected, by auditors appointed by the central board.
- (5.) That the central authority should have full powers of inspection and supervision, and defined control over all local authority.
- (6.) That every local health board shall have one qualified medical member, approved by the central authority.

And at a time when a disease of horses paralyzes our industry, it is worthy of notice that the sanitary laws of England cover veterinary practice, and it is proposed by this able commission to place this subject under the care of the department of public health.

It is plain, therefore, that the health of both man and beast receives a far more enlightened and careful attention from legislative authority in England, than in this country, unless we shall

find better sanitary legislation here than most of us have been aware of.

II. The other important source and subject of sanitary legislation and reform in England, to which I ought to refer, is the medical profession; including therein, not only physicians, surgeons and dentists, but apothecaries and druggists. No well-informed person can question the vast advantage to a people of a high-toned, able and well-instructed medical profession, or the right of the legislature to enact laws that will promote, as well as enable the poor to share, such blessings. It is a curious fact that Russia, the least civilized of the great European nations, is in one respect the most advanced in supplying medical aid to its poor. In Grimms' *Life of the Great Empress Catharine*, it is declared that she founded a school for educating women as nurses and in the elementary knowledge of physic; and that since that time the school has been so extended that one or more of its female graduates is furnished by the Government to every village in the empire.

And it is hardly a less curious fact, that the *first proposition* for a statute of which we have an account for regulating the practice of medicine in England, made in 1422, was a "bill to *restrain women* and all persons who had not taken the M. B. degree at "Oxford or Cambridge from practicing physic," but it did not become a law.* And we are told, (by the same author,) that "the first English statute for regulating the medical profession, was enacted in 1511."

Since that date, many statutes having that object have been enacted, and members of that profession have exerted a great influence for its elevation, and for the promotion of the public health of England. Physicians, like the members of the other professions, have risen with the civilization they have promoted.

A law of Henry VIII. gives us a curious illustration of surgical operations regulated by statute; for the law, after saying that any one shedding blood in the king's presence, shall have his hand stricken off; then goes on about surgery, as follows:

"There shall be present at the execution, among others, the "chief surgeon for the time being, to sear the stump; the sergeant

* Glyn's *Manual of Laws affecting Medical Men*, 1871, page 15.

“ of the pantry, to give bread to the person whose hand has been stricken off; the sergeant of the cellar, to give the same a draught of red wine after the searing; the sergeant of the ewry, and the yeoman of the chandry, with cloths and seared cloths, respectively, for the surgeon; the sergeant of the poultry, with a cock ready for the surgeon to wrap about the bleeding stump; the yeomen of the scullery, to prepare a fire and make ready searing irons; the chief of ferror, to bring with him searing irons and deliver them, when hot, to the surgeon; and the groom of the saleery, with vinegar and cold water, to give attendance upon the surgeon.” I cannot say that I should be willing to go to Albany to advocate sanitary legislation of this sort.

But the advancement of the medical profession in scientific attainments, in moral tone, in social and political influence, is full of instruction, and is closely connected with the promotion of the public health, toward which, to a large extent, it has ever stood in the threefold relation of an inspiration cause, a faithful guide and a powerful friend.

After the Church of Rome refused to allow the monks and the clergy to practice physic, surgery fell so low that the barbers and the smiths, who had aided the priests in surgery, became almost its sole practitioners; and even the more prominent of the surgeons were known as “the gentlemen of the barbers company.” Those pursuing this combined calling, constituted one of the great guilds of London; and in the reign of Edward IV., obtained a charter of incorporation. As early, however, as the 32 of Henry VIII., a statute enacts, that those surgeons using “barbary or shaving within the City of London, &c., are prohibited from occupying any surgery, letting of blood, or any other thing belonging to surgery, drawing of teeth only, except” * * And further, that “whosoever useth the mystery or craft of surgery, shall, in no wise, occupy or exercise the feat or craft of barbary or shaving.” The generation which gave so low a place to those who practiced the great science of surgery, did not treat the attorney or the parson with any higher consideration.

Thus the surgeons achieved a statutory severance from the barbers, and at the same time as they rose, left their old companions, the poor dentists, to consort with the shaving fraternity.

As I shall not have space to again refer to the dentists, I wish to say that the great English medical act of the present reign has

provided for their regular examination by the Royal College of Surgeons of England; thus restoring the dentist to that common level in the eye of the law which they and the surgeons had formerly occupied.

The early associations of the apothecaries were with the grocers, whose common and ample stores included wine, oil, honey, lard and spices, together with drugs, herbs, ointment, potions and the miscellaneous prescriptions of the physicians. The combined grocers and apothecaries were long one of the great guilds of London.

But a sanitary law also came to the relief of the apothecaries, and they left the grocers. A charter of James the First made the separation, and an apprenticeship of seven years became necessary to pursue the separate and rising mystery of the apothecary.

It does not appear that the physicians ever formed such mercantile or mechanical connections. But it does appear that they were neither above nor below the female sex in those early associations. According to Tacitus, the early doctoring dames of the continent competed with the doctoring priests. In the age of chivalry, high-born damsels gained some proficiency in the healing art; and in the *Fairy Queen* we have an interesting description of the way they cured gallant knights. And in 1422 a vain attempt, (I presume by the other sex,) was made to procure the enactment of a sanitary law that should impose a fine of £40 and imprisonment upon female physicians. Nor is such attempted injustice so very remarkable, when we consider that centuries after this, the Book of Common Prayer contained a religious service for "Healing the Sick;" and that sittings of the Privy Council fixed, (and the clergy solemnly notified the people of,) the days when the king, surrounded by divines in full canonicals, and attended by the Royal physicians, would heal ulcers, swellings and evils by the mere stroke of his royal hand! In 1682, Charles performed this right 8,500 times; in 1684 the throng was so great to be healed by him that even the presence of several court physicians did not prevent six or seven of the sick being trampled to death. It was not until the time of George the First that Oxford ceased printing this "Office of Healing" with the Liturgy; nor until after King William III. gave an applicant for royal healing this good sanitary advice—"God give you better health and more sense"—did such nonsense cease.

Still the standard of medical education was early fixed high in England by legal enactment. The first attempt in this direction originated with the University of Oxford, which in the 9th year of Henry V. insisted that a degree of Bachelor of Medicine should be required as a condition of practice by "either man or woman," under a penalty of £40; and though failing in this, a sanitary statute was procured to be enacted in the 3d year of Henry VIII., which required any candidate for medical practice to be examined by two learned doctors. And a few years later in the same reign, the powers of examination were transferred from such persons to the "College of Physicians," then lately organized under a charter of this king. And it indicates the growing consideration in which surgeons and physicians were held, that the same king, by the advice of his Royal Council, appointed several of each profession to attend upon his person. But it would seem from Lord Coke's Institutes, that these new court attendants were not very liberally trusted; for he says of them, "that no physick ought to be given the king without a good warrant; that this warrant ought to be made by the advice of his Council; that they ought to administer no other than what is set down in writing; that they should prepare it themselves and trust no apothecary." And he adds, "that the science of physick containeth the knowledge of chirurgery." It seems to me he should also have added, that if the king died by reason of such ridiculous delays, the physicians should neither be hung, drawn nor quartered. This early statute creating a medical college and giving it the power of regulating admissions to medical practice, is full of a wisdom we have not yet wholly learned. It is but an example of several English institutions of similar character, which have had much to do with developing the enlightened sanitary spirit and legislation, and with securing the high standard of medical education, now existing in England. And with a brief notice of a few of these institutions, I shall conclude the portion of this paper devoted to sanitary legislation in that country.

(1.) *The Royal College of Physicians of London.*—This great corporation was founded in 1518, to check and punish rash practitioners and promote worthy medical practice. It was given power to correct physicians, to supervise their medicines and to collect penalties of those persons who should practice medicine in

London without the consent of its Faculty. In 1540, its agents, together with those of the apothecary's society, were authorized to enter the houses of London apothecaries, and to examine the "drugs and stuff," and destroy what was defective. The college could even commit to prison offending doctors. In the same year surgery was enacted to be a part of physic, and surgeons were admitted to the privileges of the colleges. As early as 1522, it was enacted that no persons, save graduates of Oxford and Cambridge, should practice physic in England until they had been examined in London by the Examining Board of this College. And so the law substantially remained, up to the medical act of 1860, by which the old system was modified without the less carefully guarding against low professional morals and attainments. The college is hereafter to be called "The Royal College of Physicians of England." It may be readily imagined that under such a system England has been, far less than this country, afflicted with base quacks and fatal nostrums. There can be no doubt that each of the great professions, when organized and given proper control over its own membership, will exert its influence to raise the standard both of professional attainments and private character. And we need to practice on this truth. There has long been a similar college in Edinburgh and another in Dublin.

(2.) *The Royal College of Surgeons of England.*—This institution grew out of the "Company of Barbers" in London, by passing through a hybrid condition from early in the 11th century, in which it was called "The Masters or Governors of the Mystery and Commonalty of the Barbers and Surgeons of London," to 1800, when it acquired its present respectable name. Its rights and authority are similar to those of the Physicians' College, just referred to, and its standard for admission to practice is very high; so high, I fear, as to exclude many who hack, saw and otherwise torment our broken limbs in this land of liberty. Ireland and Scotland have similar institutions.

(3.) *The Society of Apothecaries, London.*—This Society originated in a charter of James I., incorporating "the Wardens and Fellowship of the Grocers of the City of London;" but, about ten years later, the more medicinal portion got an amended charter, under which they took the more dignified name of apothecaries

So great were the powers given the corporation for supervising all medicines, that its agents were "directed to enter from time to time the shops of all sellers of medicines, within seven miles of London." And in 1815 this duty of examination was extended to all England and Wales. Medicines were to be tested, and bad ones were to be summarily destroyed. The society was required to examine all persons wishing to prepare or sell medicines, and none were allowed to do so without the certificate of the society. Such certificates could be given to no person under twenty-one years of age, to no person who had not served as an apprentice in the business of an apothecary for five years, and to no person who could not sustain the prescribed and rather severe examination. The Society was also authorized to impose and collect heavy fines for violating the law or its own regulations. This society is still in full vigor, and is held in high public estimation.

I ought to state that it was a part of the duty of each of these medical organizations to preserve registers of those authorized to practice in their respective departments, and to expose and prosecute quacks and impostors.

And, when we consider what a great power for good such bodies steadily exert, when we add to all this the stringent English laws relative to the sale of poisons, and the preparation of pernicious medicines, we need not be told how much less frequently in that country than in this, ignorant physicians and surgeons send their victims to untimely graves, nor how much oftener here than there the deadly prescriptions of the careless, ignorant or stupid apothecary does the work of death. How much better the English people are protected against incompetent druggists, (an apothecary there is substantially our druggist, the English druggist not compounding medicines, or putting up prescriptions as with us,) will appear by contrasting our comparative defencelessness, with the stringent provisions enforced in England. Before a man can become an apothecary, in England, a license must be secured; and these are some of the preliminaries of such license:

- (1.) The full age of 21 years.
- (2.) A preliminary examination in arts.
- (3.) A pupilage of not less than five years with an apothecary.
- (4.) Attendance upon extended courses of lectures, in each of three of those years, of which the winter course is six months.
- (5.) Examinations in classes during these lectures.

(6.) Service as clinical clerk for at least six weeks in a hospital.

(7.) Two professional examinations; one during the second winter of lectures, and the other when the five years are completed.

And no person can act, even as an assistant to an apothecary in compounding medicines, unless, after serving an apprenticeship of five years to an apothecary, and an examination by or under the examiners of the apothecaries' society. And competency is not merely demanded by the letter of the law, but it is enforced by the decisions of the courts. A chemist's apprentice has been convicted of manslaughter, in causing the death of an infant, by sending a different medicine from that requested; and an apothecary was also convicted of manslaughter, for unskillfully using an instrument which resulted in death. Such are the guarantees between the people and the dispensing and compounding druggists or apothecaries. Such the safeguards against the sale of adulterated and pernicious medicines. And to all these must be added the constant inspection of the apothecaries' shops, processes and prepared medicines; and the far more prompt and vigorous prosecutions than are known to our laws, in cases of abuses found to exist. Nor is this all; for in 1841, a society was formed for promoting the study of chemistry and pharmacy, with a view to the better securing of the public health. In 1843 it obtained a royal charter, and this provided that it should consist of chemists and druggists; and the charter was reinforced by a law of 1852, and another of 1868. The society is authorized to make and enforce by-laws for the elevation of the standard of pharmaceutical and chemical attainments. These laws required a public registry to be kept under the care of the society of chemists and druggists, and forbid any person to keep any shop for selling, dispensing or compounding poisons, or to assume the name of chemists, druggists or pharmacists, in any part of Great Britain, unless registered under this act. And the society has the right of examination for such registry.

I have no time to notice the conditions under which certain universities in the United Kingdom are authorized to confer medical degrees; and it is, perhaps, enough to say, that they are such as not to let down the standard of professional knowledge, or to give encouragement to any sort of professional incompetency.

But that same wise sanitary policy, which so long ago demanded a true record of the cause of every death in England to be sent to

the central office, and to be classified and published to the people, which has thus carefully elevated and guarded the great healing professions, has exhibited a yet more extended care for the knowledge of the human body. As early as 1832, legal provision was made for a regular supply of human subjects for anatomical dissection; and of so high sanction is anatomical science deemed worthy, that the Secretary of State for the Home Department now issues the licenses to practice anatomy; and the same authority appoints inspectors of the places where it is carried on; and every such inspector makes a quarterly report to that cabinet minister. Such is the progress made in that branch of sanitary science—such its elevation, since the time of Elizabeth, who allowed four bodies for dissection, and that of Charles the II., who increased the allowance to six.

And in order to place safe and useful knowledge as to medicines, as fully as possible before the people of England, several laws enacted from the 21st to the 25th year of the reign of Queen Victoria have provided for the publication, by a "Medical Council," of a book containing a list of medicines and compounds, and the manner of preparing them, together with their true weights and measures, &c., &c., and such other matters, as the Council shall think fit; to be called the "British Pharmacopœia;" and the "General Council of Medical Education and Registration" is given the exclusive right of publishing that book; the price to be fixed from time to time by the Treasury Department of the British Government! The "Pharmacopœia" thus prepared has taken the place of the several similar books formerly published by the various medical organizations to which I have referred; and thus the people of England, Ireland and Scotland are furnished, at the cheapest rates, with a manual of medical prescriptions having every guaranty of safety, utility and sound knowledge, which the highest professional attainments and the most stringent legislation of Parliament can confer. And heavy penalties are enforceable by the Pharmaceutical Society against any person who shall compound a medicine mentioned in this book otherwise than according to its directions.

This "General Council of Medical Education and Registration of the United Kingdom" is a very important body, and wields a general authority over the whole medical education and practice of the British Empire. Having originated in the "Medical

Act" of 1858, its powers and duties were enlarged by Parliament in 1862. It has branches in Scotland and Ireland; and upon its Board of twenty-four members, there are those elected by each of the medical colleges and societies before referred to, by the corresponding societies in Ireland and Scotland, and by each of the universities of the three kingdoms having medical faculties; and there are also four members who are appointed by the Queen.

The body, thus constituted, enforces and supervises the complete registration of every person connected with the healing art, from the druggist who sells, the apothecary who compounds, and the clerk who puts up a medicine, up to the most distinguished practitioner and the ablest professor of medicine; takes care that no one assumes any medical title, publishes sanitary qualifications, lays claim to any medical education to which he is not entitled; compels every medical society, college and university, (not excepting proud and venerable Oxford and Cambridge,) to make report of the medical instruction they give, and to keep that instruction up to the high standard which the public interests demand; publishes to the people the names, with proper suggestions of the qualifications, of every person entitled to practice as a druggist, apothecary, surgeon or physician on the British Islands; and exposes and causes to be prosecuted the quacks, the charletans, the ignoramuses and the knaves, who attempt gains from the folly and ignorance of the afflicted.

Such is another instance of the care which the laws and the benevolence of England take of the health and lives of her people; and the example demands the study of our legislators and of our doctors.

It would carry me far beyond permissible limits to sketch even the outlines of that detailed sanitary legislation which aims to secure competent surgeons and physicians in the army, navy and mercantile marine; proper medical inspectors of merchant seamen; skilled surgeons and physicians for prisons, asylums and all the great factories most dangerous to health; and safe medical advisers for the poor in all the parishes and unions of the kingdom.

There can be little doubt, I think, that English legislation has very nearly reached the creation of a "minister of public health," who will not only be a member, but the most important member of the national cabinet. His peaceful and brighter glory will take

the place, in some measure, we may hope, of that costly and bloody glory which has gathered around the brows of the great war ministers, of that senseless pomp and display which have attended the glittering Lord Chamberlains of the court.

This outline, in which I have set forth the comprehensive and vigorous methods of the later sanitary legislation of England, would convey a false impression, if I did not add that they are greatly encumbered by a vast accumulation of incongruous and half antiquated statutes. In nearly every department of English law and administration, the need of codification is apparent; and our more systematic and extensive labors in that direction are worthy the attention of the English jurist.

And on the other hand, though hardly within the scope of this paper, I cannot omit calling attention to the numerous and invaluable discussions of the great questions of sanitary science by which the medical men of England have laid the world under obligation. The public opinion which demanded such wise and varied legislation was formed by the writings of able men, rich in medical skill and benevolent spirit. They have given a breadth and precision to sanitary knowledge, and a certainty and vigor to preventive measures, which are among the greatest blessings of human effort. The sanitary literature as well as legislation of England deserve a more careful study on this side of the Atlantic.

NEW-YORK.

It will not require so much space to present a sketch of all that is useful in the sanitary legislation of this State. Our country is so new, our absorption in business and politics has been so great, our neglect of the public health has been so general, our estimate of human life, which so steadily floods our shores from the Old World, has been so natural and complete, that our sanitary legislation is, with a single exception, very narrow in its range and very imperfect in its methods, as compared with that of England.

We have already seen that this city secured almost no sanitary powers under its English charters; nor prior to the Revolution does there appear to have been any sanitary legislation worthy of mention for any part of this State. The first act of that kind appears to be that of 1784, entitled "An act to prevent the bringing in and spreading of infectious distempers." It is really

a quarantine law, and provides for the medical inspection of vessels. An act of 1794 amends the former, and provides the not very Christian remedy of sending infected persons out of the State. An act of 1796, provided for a health officer and seven commissioners of health, and combines quarantine with what are, with us, more commonly called health powers; that is, internal precautions against the development and spread of disease, under the same commission. This act naturally suggests a simplification of our present sanitary legislation for this city, by uniting the powers of the Quarantine Commissioners, the Health Officer, and of the Board of Health of this city, into the same board. This act of 1796, confers, for the first time, upon the Mayor, Aldermen and Commonalty of the City of New-York, the power of making by-laws and ordinances requiring cleansing, and the removal of offensive substances and nuisances out of regard to the security of the public health. The act of 1796 was amended in the same spirit in 1797 and 1798, in such manner as to confer larger powers for the regulation and for removal from the city of manufactories and occupations that threatened the public health. Acts of not much sanitary importance were enacted in 1800, 1801 and 1804. All this legislation is limited in its application to the cities of New-York, Hudson and Albany, which were then the only cities in the State.

The next sanitary law of importance is an elaborate act of 45 sections, enacted in April, 1820, containing these interesting provisions: it combines quarantine and ordinary internal sanitary powers, and confers them on the same body; and that body is a board of health, made up of commissioners of health, appointed by the State, and members of the board appointed by the Mayor, Aldermen and Commonalty of the City of New-York. The number of members to be appointed by the city is unlimited; the powers of the board and the method of its action are very loosely defined. And if the mercenary combinations and party spirit of that day were as strong as at this time, it is very plain that such indefinite and arbitrary powers as the board possessed, if exercised at all, must have been a great public peril. This union in the same board of members appointed by the State with those appointed by the city deserves consideration at this time, and might perhaps be repeated with advantage.

This act related only to the cities of New-York, Hudson and

Albany, and the navigable waters connecting them; and it first provided for health wardens in this city to inspect dwelling houses and other buildings. This act was amended and extended in 1823, and the whole health legislation was revised in 1827; the City of New-York, by that time, securing nearly all sanitary authority within its own limits.

The approach of the Asiatic cholera in 1832, caused the passage of a law in that year, entitled "An act for the preservation of the public health," which is the first I find which extends to the State at large, or which provides for the organization of health boards in the cities and villages generally; though this act recites that some such boards then existed. It also covers the sphere of quarantine legislation, especially along the great lakes, the St. Lawrence and the Hudson. "It declares that all persons arriving from Canada or from any other place out of this State, shall be subject to quarantine." The common council of cities and the trustees of villages are to appoint boards of health; the supervisors, overseers of the poor and justices of the peace of each town are declared to be a board of health for such town.

The boards in each town, village and city are to meet forthwith; they are "to appoint each a health officer; they are to make regulations, *in their discretion*, concerning the place and mode "of quarantine."

Nothing can better illustrate the crudeness and arbitrary methods of our sanitary legislation than such laws, subjecting every foreigner and every resident of our other States to summary and ill-defined local authority. Like other laws, I shall refer to, it illustrates the need of co-operative sanitary legislation by the State and National Governments upon some carefully matured plan.

The next important sanitary enactments were made in 1850.

A general act of that year for the preservation of the public health, provides, that the Common Council of every city, and the trustees of every village shall, *once in each year*, appoint a board of health, to consist of not less than three, nor more than seven persons; and a competent physician to be the health officer. In towns, the supervisors and the justices of the peace, or the major part of them, are to be the board of health; and they are to appoint a physician to be the health officer of the town. Such boards are to have power to regulate quarantine, and the deten-

tion of all persons arriving in such city, village or town ; to prescribe powers and duties of health officers ; to regulate intercourse of infected places ; to suppress and remove nuisances ; to issue warrants for the arrest of those violating the rules, and to make such regulations as they shall deem proper for the preservation of the public health ; and finally, to employ such force as they deem necessary. This act applies to the whole State, excepting New-York City and Brooklyn.

This law is obnoxious to many objections. It secures nothing of that continuity of service needed to devise wise sanitary precautions ; it subordinates medical skill to official expediency and numerical majorities ; it gives undefined and dangerous power, without securing an offending party any chance for a hearing or an appeal ; it creates a too great number of boards, and provides for no general responsibility, method, co-operation, rules of action or supervision.

Other laws enacted the same year, constitute the Common Councils in the Cities of New-York and Brooklyn, respectively, boards of health ; and gave to certain persons, to be by those bodies appointed, the exercise of the executive powers of such boards. By such legislation, the State handed over to these municipalities its high duty of taking care that the health of every one who frequented them, should not be needlessly imperilled ; it mingled sanitary powers with the great mass of political authority, partisan tactics and mercenary intrigue, by which great city affairs are controlled. Men elected by party caucuses were treated as competent to administer the science of health, and to solve the problems of sanitary precaution. Health wardens and other officers were allowed to be selected and salaried without limit by the city aldermen and councilmen. It is no wonder that the exercise of sanitary authority soon became a greater peril than miasma and contagion ; that political doctors became the agents of partisan and mercenary city officials ; that mayors of New-York, by no means scrupulous or timid, did not dare, for a whole term, to even call a meeting of the New-York Board of Health ; that of the 48 health wardens and assistants, more than one-half were keepers of corner groggeries, and the other half were partisan repeaters and bullies ; that nearly the whole sanitary force of the city was, for utility, worse than a sham, and was, in reality, a scandal and a peril to a civilized community.

Until 1866, there was little other sanitary legislation of importance, save that relating to quarantine at the port of New-York. Were it not that the health officer is notoriously and disgracefully a partisan appointment, conditioned upon an implied promise to levy and hand over large sums for working the party machinery of the State; were it not that there is no need of a quarantine board and health officer of the port, distinct from the general health authority having jurisdiction of the cities and villages along the harbor, the general quarantine system at this port would not be very objectionable. The known impossibility of their removing such partisan abuses in connection with that system, was the reason why the metropolitan health law of 1866 did not interfere with it, and only made the health officer of the port a member of the metropolitan board.

The great length which this paper has reached will not allow much explanation of the peculiar provisions of this most important act, nor much notice of the inestimable advantages this city has derived from it. This generation will not forget the self-sacrificing labors of those worthy members of the medical profession which arrested public attention and gave intelligence and authority to that public opinion that made such legislation possible. And we may congratulate ourselves that even the insurrection of municipal venality and barbarism, which despoiled and destroyed so much in our midst, shrunk from the attack of the main structure of the metropolitan health law of 1866; although it grasped the patronage of appointing members of the board, cut down its jurisdiction to the limits of this island, and, worse than all, by a crafty indirection, repealed that salutary provision under which any abuse of its officers could be summarily brought to light through a public examination before the courts of justice.

I will only refer to a few leading and original provisions of the law of 1866, which especially deserve the attention of those who attempt sanitary legislation for cities or villages:

1. Recognising the inevitable necessity of a board of health, possessing powers partly judicial, partly executive and partly legislative; and of its exercising them in the united light of legal principles, medical and sanitary science and practical wisdom; that act created a board, of which three members were to be physicians, (one the health officer of the port,) another a layman, and

the four others, the Metropolitan Police Commissioners, (one of that board having been the chief justice of one of the city courts.)

2. Having regard to the great importance of securing experience and steadiness of action by the board, that law required the members to be so classified that their terms should be for four years, and that only one of the members should go out in any year.

3. Intending to avoid the feebleness and corruption of so many health boards, caused by their direct dependence on frequent popular suffrage, sure in a great measure to be controlled by the authors of those nuisances and other perils to health, which the board ought to attack, this law provided that its members should be appointed by the Governor and confirmed by the Senate.

4. Desiring that its doings should be just as well as vigorous, this law provided that in all cases where the property or business of a citizen should be interfered with by the proposed action of the board, the citizen should have reasonable notice and a fair opportunity to be heard before that body; and of course he could have a rehearing before the courts on a *certiorari* to bring up its record.

5. And with a view to energy and harmony, as well as intelligence and certainty in all its executive action, that action was to be taken through one superintendent, who was to be a highly qualified physician; and the work of inspection was to be carried on by a number of inspectors, who were to be worthy medical men, who were to report in writing at stated times.

6. Upon a body thus organized, the whole sanitary authority of the district was devolved, and that body was required to act in public, to preserve full records and to make complete annual reports.

The board was given much more adequate power as to the City of New-York than had before been conferred, for the enforced registration of births, marriages and deaths; but until there is general and far more efficient legislation, that great subject must in this State remain in a condition disgraceful to our civilization.

It is safe to say that so much power, so carefully guarded and so justly conditioned, was never devolved upon any health board in this country, if any where; and that this power, on the whole, and despite partisan coercion, has been used in a manner equally

gratifying to the promoters of the law and to the true friends of the public welfare. It may be true that our late municipal degradation has lowered the standard of sanitary administration as well as narrowed its sphere ; but it is a great fact, of which the people should take notice, as a test of political methods, that in the midst of such prevailing corruption and infidelity in our municipal affairs, no serious charge except want of vigor has been brought against this board, and no connivance at spoliation has been proved against its members.

Of its work, I can only say, that New-York has had no other officers who have more faithfully withstood powerful seductions ; none other who have attacked and removed more serious perils to the public welfare. The abatement of many manufactories which were a public nuisance ; the removal of slaughtering from, and the prevention of cattle driving in, the built up portions of the city ; the public protection in the case of contagious diseases to man and beast ; the great improvements it has caused in tenement houses ; the cleansing of so many thousands of places of filth and disease ; the enforcement of greater care in the preparation of gas ; the making and enforcement of tens of thousands of orders and inspections ; the great courage given to the better classes and the steady coercion upon those who disregard the public health, which the action of this board has caused ; have been an inestimable public blessing.

And yet, among all the benefits it has secured for the future, I hold that by no means the least, which is conferred by the decisions of the highest court of the State to the effect that, under our American constitutions, it is possible to abate the worst classes of nuisances without a resort to the delay and the expense of a jury trial. These decisions are the first solid legal basis, on this side of the Atlantic, of truly effective sanitary administration.

It is painful to turn from such laws and administration to the miserable sanitary methods and the feeble sanitary results which have been the natural consequence of the partisan and dishonest control of our public affairs in this State during the last two or three years of our political degradation.

I have time for but a few illustrations :

The Brooklyn charter of 1854 provides for a mayor, annually elected ; and for a board of aldermen, consisting of two from each ward, of which one-half are annually elected for a term of

two years. The aldermen and mayor are the Common Council.

Sanitary powers of a varied and ill-defined character are conferred by the act of 1854 upon the Common Council. It creates a board of health, which is to be composed of as many of the aldermen as the mayor and all the aldermen shall at any time select; and upon this annually shifting and utterly undefined body of politically elected aldermen are conferred a considerable variety of sanitary powers; all of which may be arbitrarily exercised without notice or opportunity to be heard on the part of those complained of. Of course, the aldermen are the mere reflection of the party majority of the moment in their respective wards, and every wholesome and vigorous exercise of their sanitary authority would offend some voter. Such a relation, even if ordinary aldermen had adequate scientific or medical knowledge to administer the sanitary authority required for the protection of a great city, would disarm all their independence and efficiency for sanitary usefulness. Yet a law of 1870, enacted in the same spirit and at the same session as the Ring charter of New-York, took Brooklyn wholly out of the Metropolitan District, and carried back the sanitary administration of that great city to the confused, shifting, partisan, divided, aldermanic health board of 1854; and in addition conferred upon it the great powers given by the metropolitan health act of 1866. It may have been but just to confer upon a Brooklyn board of health certain powers of local administration; but to confer them upon a partisan body, without continuity of existence, strength of tenure or medical skill; to provide for no records or reports; to allow secret and arbitrary action and to give those about to be condemned no opportunity for hearing; to subject the water front of the harbor of New-York again to numerous jurisdictions; are examples of legislative barbarism and injustice unsurpassed even during the last three years of recklessness and partisanship.

Sanitary legislation in the charters of Long Island City and New-Utrecht, a part of the Metropolitan Sanitary District, is hardly better than that provided for Brooklyn. The provisions as to New-Utrecht, (under which almost the sole power of the board of health is to cause a hunt annually up and down its little portion of the bay for carcasses and stinking substances,) would be simply ridiculous, did it not assume a serious aspect as illustrating

our disgraceful need of general and comprehensive sanitary legislation, which shall have as little regard for mere town and village lines as does the offal that poisons our water, the stenches that contaminate the air, the contagion and pestilence that, borne on the winds, wraps cities, villages and towns in one common winding sheet of disease, dismay and death.

I cannot take the time needed to point out the similar defective and objectionable sanitary legislation for Yonkers and other parts of the late Metropolitan Sanitary District. Every where sanitary authority has become one of the agencies and forces of the party politics of municipalities; and no general supervision, no concert of action, no common responsibility, is provided for.

A new charter for the City of Albany, enacted in 1870, is no better. The mayor and aldermen, elected by the party majorities, are the common council and the board of health. Various sanitary powers, loose in definition, narrow in range, utterly *ex parte* and arbitrary in their contemplated method of exercise, are conferred; and all the ready methods I have pointed out, adopted to secure public efficiency and private justice, are utterly disregarded. No inspectors, no reports, no records, no hearings, no medical skill, are within the theory of this charter. Partisan, short term, aldermen are supreme.

The new charter for the City of Buffalo, granted in 1870, is in some respects a considerable improvement on those last referred to, but in others there is much in it to regret. That part of the proper sanitary powers relating to abating nuisances and removing slaughter houses, (the former a very undefined and extensive power,) is conferred upon the Common Council, consisting of the mayor and aldermen. The residue of such power is conferred upon a board of health, to be made up of the comptroller, engineer and the president of the Common Council, with authority to appoint a health officer, who is to be a physician; which is certainly better than a mere partisan body, directly dependent on the votes of those who endanger the public health. Some other features of this Buffalo charter illustrate both the want of some legislation by the general government as to sanitary matters and the great need of a general State law containing certain provisions that should be deemed a part of every local health law. For this charter contains important and, it seems to me, unconstitutional discriminations in favor of residents and against non-residents.

For example, after referring to certain dangerous diseases, the law says the board of health may "cause any *resident infected* with "such disease to be removed to the pest house, or *to some other* "place on the certificate, &c.; * * but it may cause any person "not a *resident* of the city, infected or *believed* to be infected with "such disease, to be *sent to the pest house* on the certificate, &c.; " * * * and may stop, detain and examine for that purpose every person coming from any place infected, or *believed to* "be infected, with such disease, &c., &c.; and the board may forbid any vessel by *them suspected* to have on board any infected "or diseased property or person to *enter the city or harbor*," &c., and the violation of such order is made a misdemeanor. When we reflect that Buffalo is a port of entry for foreign vessels, and is on the great line of internal rail-road travel, it seems incredible that a law could have been enacted consigning travellers to a city pest house on the mere belief of a local board of three persons, and for suddenly turning away friendly merchants with passengers and cargo on mere suspicion. No mandate of a high feudal lord of the Rhine could be more arbitrary; no provisions of any quarantine law of any other civilized State was ever so destitute of all guarantees of caution or justice. Nothing but the long continued abnegation by the State of its duty to provide, as far as possible, general laws and stringent supervision for all municipal administration; nothing but the mean ability and the low standard of fidelity which have of late filled our halls of legislation would have made such disgraceful provisions possible. So long as the work of such men fill five hundred pages of our annual statutes with special charters and other laws for cities and villages, we can hope for little better.

It is some relief, however, to refer to a brief act of 1872, creating a board of health for the village of Saratoga Springs, for that board is composed of three persons, one of them a justice of the peace, another a village trustee, and the third a practicing physician of the village. The elements of the board secure varied intelligence; and had the terms been for three years, and so classified that only one should go out each year, it would have been a far greater improvement on old precedents. Still there are no notices, no hearings, no reports, and no records provided for.

And I ought to add, that a law of 1872, creating a board of health, and vital statistics for Richmond County, still further

illustrates the healthy reaction against the demoralization of 1870, and gives hope of the ultimate triumphs of the great principles of the metropolitan health act of 1866. The county judge of Richmond County, with the board of supervisors, are to appoint five sanitary commissioners, *all of whom are to be physicians*; and they, with said judge, constitute the board of health, and hold office for three years. Had three of these sanitary commissioners not been physicians, but business men, and the board been so classified that the terms of only one should expire each year, Richmond County would have just reason to congratulate itself. So many doctors, if they are not very rare men, will excite the jealousy of the people, will give too much scope to nice theory, and will be found wanting in general business and political experience.

A law containing sanitary provisions applicable to this city, enacted in 1871, (Laws 1871, vol. 2, chap. 801,) further illustrates the habit of division and disintegration, when concentration and union are indispensable. The city comptroller is authorized to borrow as much money, not exceeding \$100,000, as the "Commissioners of Charity and Correction shall need to procure or purchase proper accommodations, and to take charge of them, for the care and treatment of persons sick with contagious diseases." Now, no person, I venture to assert, but those who have dictated recent legislation for this city and those who have made it to order at Albany, would have doubted that of all bodies, that most fit to have charge of a public hospital for those sick of contagious diseases, would be that Board of Health which, save this innovation, has sole authority and responsibility, and the best of all appliances and experience, in regard to persons so affected and the protection which the public health requires in respect of them. What confusion of responsibility, conflict of jurisdiction, needless expense and mutual jealousy, will not this unwise enactment produce?

An act of 1871, for the creation of a board for the examination of druggists, is open to the same and still more serious objections. For, besides the evils of a subdivision of sanitary power in the city, by the creation of a new sanitary board, this act fails to make any use of the pride and self-respect of the medical profession as the elements for raising the standard of its own membership. We have seen how, and with what sanitary results, for centuries, every branch of the medical profession in England has had the

effective guardianship of the gates to its own ranks, and a duty of weeding out the tares which have encumbered them. The same has also been true, of late, of the legal profession; and since this druggist law has been enacted, that profession, in this city, has courageously shown the wholesome vigor of its organized action. But the authors of this law, treating the question as one of partisan or political power, gave all authority of appointment to the mayor, instead of conferring it upon the medical profession, the board of health, and the medical colleges. It brought every druggist, every druggist clerk, and every political doctor to the feet of the throne of the mayoralty. Every commissioner, every druggist and druggist clerk and doctor must beware how he votes and what he says, if he hopes to gain a salary, or retain a license. The only apology for passing such an act, was the existence of a law of 1839, under which a druggist was entitled to vend his fatal nostrums in this city, on producing a diploma granted in any quarter of the globe, though he might be utterly ignorant of our climate, our diseases, or our remedies, or have fled, as a criminal, from the country whose diploma he had prostituted.

Among the most important and benevolent agencies for the protection of the public health, are dispensaries and hospitals; and, so far as private generosity is concerned in sustaining and personal devotion in caring for them, I believe that such institutions here may safely challenge comparison with those of England or any other country. Nor has our legislature dealt ungenerously with such institutions. But the general political and municipal degradation to which I have referred, has reduced begging by such institution to a fine, or rather, I fear, to a very coarse art; and has disclosed the need of some careful legislation for regulating the amount of State contributions, and testing the good faith and merits of all applicants. For example, on the 26th day of April, 1870, (the year which may be regarded as the very nadir of municipal pollution,) an act was passed making provision for our city government, which meant, in part, the giving of many honest, and probably as many corrupt or unmerited donations. The dispensaries and hospitals were aware of their chances, and appear to have been ready to improve them, under that act.

Homeopathic, Allopathic and Eclectic dispensaries alike, and

many other institutions obtained their thousands from the treasury. But on the 6th of May of the same year, (Laws 1870, chapter 704,) and hence only ten days later, it accorded with the policy and profits of our party managers, to open the doors of the treasury a second time to "Public and Charitable Institutions" and others; and what do we find? Why, these same dispensaries and other institutions on hand," and holding out their hands again, and securing many other thousands. That most of these institutions are great public blessings, I fully believe, but no one can read the statutes I have cited without perceiving too much evidence of a system, a persistence and a co-operation in begging, by no means admirable, even if innocent. It is but too plain that such mongrel unions, such dangerous confederations between religion and charity, politics and medicine, as this City and State have encouraged, and have been screened under the sacred name of benevolence and the public health, are equally dangerous and disgraceful.

I have no time to refer to our sanitary legislation relative to poisons, abortions and mal-practice; but must close this paper, already far too long, with some general reference to the State laws relative to medical education.

In 1801 a general act was passed, "To regulate the practice of physic and surgery in this State;" and the act refers to existing regulations on the subject, and requires medical practitioners to come forward and make proof before the judges that they are conforming to such regulations.

Such a requisition at this day would doubtless create a first-class medical sensation, and would probably give our judges considerable work.

In 1813, the physicians and surgeons of the several counties of this State were by statute authorized to meet together and organize themselves and choose officers; and when so organized, they became corporations capable of suing and being sued. The act recites that some such societies had already been established, and refers to a State medical society as being then in existence, probably organized under an act of 1806. These medical societies are authorized to examine students and give diplomas; and students dissatisfied with such examinations may appeal to the State Medical Society. The author of this act had evidently some knowledge of the great medical societies of England, to which I

have referred; for the preamble recites, that "well regulated "medical societies have been found to contribute to the diffusion "of true science, and particularly the knowledge of the healing "art."

This law further provides, that these societies shall have authority for selecting "censors to conduct the examinations; for the making of by-laws relative to the admission and expulsion of members; for the election of one delegate each to the State Medical Society; for a record of membership and of the proceedings; for procuring a library and apparatus, and encouraging useful discoveries." There can be no doubt that such organizations are well adapted to develop salutary professional pride and aspiration, and to raise the standard of medical attainments; but their powers were wanting in nearly every element of coercion, and were utterly defective, as compared with the corresponding English organizations, in failing to declare it to be the duty or the right of these medical corporations to punish impostors or otherwise protect the people against ignorant and dishonest practitioners.

There being, then, no law as to laws being limited to one general subject, it happened curiously enough that this medical act was first amended by an unique clause foisted into a law of 1814, entitled "An act to raise money to build a bridge over Allen's Creek, in the town of Le Roy;" from which I infer that the medical society agents of 1814 kept quite as sharp an eye on the legislature as did the dispensary agents of 1870.

A law of 1818 amended the act of 1812, by providing that the State Medical Society should also elect censors for examining students, and by authorizing each of the colleges of medicine in this State to elect a delegate to the State Medical Society. This last provision is a feeble foreshadowing of the election by English colleges and universities of members of the "General Council of Medical Education and Registration," already referred to. The several subsequent amendments to the law of 1813 do not appear to have materially affected the efficiency or modified the structure of the societies formed under it; but a law of 1819 authorized them to levy a tax of one dollar a year on every physician and surgeon, whether belonging to the societies or not.

But there are several general provisions of law, which if properly executed, would greatly increase the efficiency of those

societies, and would bring them more nearly up to the utility of the English organizations.

(1.) The county society may require every physician or surgeon to apply for and procure a certificate of membership; and if any such practitioners fail to do so, his license is to be deemed forfeited.

(2.) If any such practitioner shall be charged before any county medical society with "gross ignorance or misconduct in his profession, or with *immoral conduct or habits*," and two-thirds of the members at a meeting sustain such charges, they are to be delivered to the district attorney, and he is to prosecute the same before the court; and the court may give judgment declaring the guilty party for ever incapable of practicing physic or surgery in this State, or may suspend him for a time.

These are stringent provisions; more severe, indeed, than any that apply to any other profession, and have doubtless done much to raise the general learning and character of the medical profession.

I have no time to state the legal provisions as to qualifications and examinations for medical practice. If they were made into a harmonious code, and all the methods and avenues through which the right of practice may be reached were subjected to a more vigorous central authority, there would be much less to be desired in this direction.

As early as 1840 the regents of the University were authorized to enforce the honorary degree of "Doctor of Medicine;" and a law of 1872 has authorized that body to appoint one or more boards of examiners in medicine, and to give diplomas which shall entitle the party examined, "*whether male or female*," to practice physic and surgery. It is, therefore, a curious fact, that the last statute of New-York relative to medical education, enacted after the elapsing of more than four hundred and eighty years since the English law deprived women of their ancient right to practice physic, should have restored that right to the female sex!

I cannot, however, but regard it as a misfortune to thus create an independent source of authority for practicing medicine instead of conferring the entire power of that nature upon some central body, representative of the medical profession, in which all its schools, institutions and societies, and every branch of its mem-

bership should be fairly represented, and for which the profession should feel responsible. Proper provisions would, of course, be needed, so that no one school or class of medical men or women should be allowed to domineer over the others.

An act of 1857 authorizes the organization of Homeopathic medical societies in the several counties under the law of 1813, and a law of 1866 recognises a State Homeopathic Medical Society.

An act of 1856 gave legal sanction to a College of Pharmacy, and this act was amended in 1871. The powers of the college are adequate to encourage pharmaceutical learning, and its influence is doubtless salutary, but it has no adequate authority, or rather none whatever, for bringing ignorant and dishonest druggists or chemists to any punishment, *or even for exposing them*. The law fails to avail itself of the honorable pride of those of a common profession, in promoting learning and character among its members, and so falls far below the corresponding English statutes in practical efficiency for promoting the general welfare.

The act to regulate the practice of pharmacy and the sale of poisons, passed in 1872, (and repealing the partisan druggist act of 1871,) is a better specimen of legislation, and shows that public opinion is developing in the right direction. Yet, this act is defective in these essential particulars; in not providing that every druggist and chemist, wherever graduated or instructed, should have a license from the board; in not making it the duty of the board to make inspections of medicines sold; in not requiring it to prosecute all offending and unqualified druggists and chemists; and in not placing it in some legal and co-operative relations with the New-York Board of Health.

In 1868 the dentists of the State procured the passage of a well conceived law for their organization, after the analogy of the medical societies. This law, amended in 1870, while it gives the dentists as an organized body no adequate power over those charletans who do not become members of it, is yet calculated to do much good; and is a further illustration of the tendency of all the professions, if encouraged by law, to use their organized influence for the elevation of their own membership and the protection of the health of the people.

Here, too, as in England, we notice how physicians and medical science came gradually to have higher and more intimate relations

with legislation and administration ; and the day is probably not remote when a department of the public health may be thought to be as essential to the public welfare as a canal department or an engineering department. Some recent acts may, perhaps, be regarded as direct steps in that direction.

For example : an act passed in 1864 authorized the Secretary of the State Medical Society to arrange a series of questions and instructions to be transmitted to county judges ; and the latter are to appoint a physician in each county to examine into and report upon the condition and treatment of insane persons in poor houses, alms houses, asylums and other institutions throughout the State. But as the entire expense is to be only \$300, the act may be regarded either as a remarkable illustration of the niggardliness of the legislature or of the supposed unselfish spirit of the medical profession.

A law of 1871 authorizes certain courts and also the Governor, to institute a summary inquiry, through a commission to be appointed, into the sanity of persons charged with or convicted of capital offences, and an appropriation of \$3,000 was made the same year to pay the expenses of such medical commission.

This review of the sanitary legislation of England and New-York may, I think, fairly lead us to believe that we are not far from some salutary reforms, of which there is great need ; and it cannot fail to convince us that societies like this are leading the public mind up to those reforms and have a high sphere before them for labors of inestimable public utility. The value of sanitary precautions against needless sickness and premature death are becoming more and more appreciated.

I venture to suggest the following as some of the organic measures of sanitary legislation now greatly needed, not only in this State, but wherever there is dense population.

1. Co-operative sanitary legislation between the Federal and State governments.*

2. A general law on the subject of public health, with some special clauses applicable to all villages, and others applicable to all cities ; our sanitary legislation, in regard to cities and villages generally now being in the most confused, inefficient and demoralizing condition.

* Since this paper was read, a sanitary bill has been introduced into Congress, and perhaps it is the first bill of that nature ever presented to that body.

3. General laws regulating every variety of medical practice, and the preparation and sales of medicines; under which those engaged in either shall have an organization and authority for securing, (coupled with a duty of keeping up,) a high standard of capacity and character, for examining all candidates, for exposing all malpractice, and for expelling all unworthy members.

4. A central medical board having a classified membership, with proper relations to the State government, clothed with a supervisory control in respect of all such organizations, and the studies and standard of scholarship in all medical institutions; with the duty of looking into the sanitary administration of every city and village of the State, so far at least as to facilitate their harmonious action and to report their sanitary abuses; with the authority and obligation of examining into the general sanitary condition and management of every public prison, school, jail, poor-house and public institution of charity or correction in the State; with the right to demand reports in respect to all matters to which the supervision of such boards should extend, and the duty of making an annual report in respect of all such matters to the Governor.

Such medical board should also have all the authority in regard to medical education now belonging to the Regents of the University; medicine not being, any more than law or divinity, a fit subject for the control of the Regents; and such board should also be an appellate tribunal in regard to all medical societies. And in such medical board, (of which a part of the members should not be physicians,) there should be a bureau of registration of births, deaths and marriages, with authority to require full returns from every part of the State. It should also supervise the enforcement of compulsory vaccination throughout the State. It is not less a calamity than a disgrace to this great State to be without such a board of registration.

With sanitary administration upon such methods, properly reinforced and criticized by voluntary organizations, much needless sickness and municipal corruption would be avoided; not a little pernicious charlatantry and not a few poisonous medicines might be suppressed; the catalogue of crimes might be reduced, and public morality and sanitary intelligence might be greatly advanced.

It is further indispensable, not only in this supervisory health

board, but in respect of all local boards of health, that there be a divorce of sanitary administration from party and village politics. Until our people come to regard all sanitary laws and precautions as measures based on science, experience and medical skill, and not as mere agencies of caucus politics and party majorities, we can never have the public health duly protected, or any other results than corruption and inefficiency from our sanitary administration. Nothing can be more absurd than annual, party elections of village politicians to administer our health laws. They are generally utterly without qualifications, when elected; and while in office for short terms, they stand in constant fear of losing the votes of the bad men they ought to coerce; and by the time they have gained a little sanitary knowledge, their terms of office are expired. We have many stringent sanitary laws, so stringent indeed that any real enforcement of them would raise a general protest. They are in no sense enforced at all; but the threat of enforcement serves the purposes of mercenary officials and village demagogues. When the public mind shall comprehend that in every local board of health there must be united, medical skill, sanitary knowledge and classified terms of several years duration, so that there shall always be some experience and courage for the work; that every such local board should be organized on the same principles, and be subject to some general supervision, both in regard to methods and to expenditures; that our methods of arresting disease must, no more than the disease itself, be limited by mere political boundaries or municipal jurisdictions; then and not until then, can we hope for that kind of sanitary administration, which the common safety requires, and every consideration of economy and morality alike commends. Until that time, our city and village health laws and administration must, in the main, continue a scandal to our institutions and a disgrace to our political intelligence.





